IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1463 OF 2006

Mr Rajesh P Thakkar & Anr, .. Petitioners.
Vs
State of Maharashtra & Anr. .. Respondents

Mr A.M.Saraogi along with Mr Kamble, for the petitioners.
Mr P.A.Pol, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 13th July, 2006

P.C.:

1. Heard the learned counsel for th petitioners and the learned APP for the respondent-State.

2. In this petition, the petitioner has made the following prayers:

> "(a) That this Honourable Court be pleased to pass an appropriate writ, order and direction, directing quashing of nonbailable warrant issued against the petitioner no.2 in case Nos 220/2005 and 221/2005 of 2005 filed under the provisions of Section 138 of N.I.Act before the Honourable Atpadi Court, District Sangli (Maharashtra) on the complaint filed by the respondent no.2 on such terms and conditions as this Honourable Court may deem fit and proper,
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> (b) That this Honourable Court be pleased to pass an appropriate writ, order and direction, ordering and directing the dispensing of personal appearance of the petitioners before the Honourable Court at Atpadi in Case Nos 220/2005 and 221/2005 of 2005 filed by the respondent no.2 under the provisions of Section 138 of N.I.Act on such terms and condition as this Honourable Court may deem fit and proper."

3. Mr.Saraogi, learned counsel for the petitioners, submits that petitioner no.2 is seriously ill and has filed on record a certificate indicating his illness issued by the Breach Candy Hospital Trust (Exhibit-B). Considering the certificate annexed to the writ petition, I am satisfied that the following order in the instant petition will meet the ends of justice:

(i) The petitioners, through their advocate on record, shall file an application with the undertaking of the learned Advocate on record, as indicated in Bhaskar Sen Vs State of Maharashtra, 2004 (4) Mh.L.J.1115, seeking exemption afresh within two weeks from today. The learned Magistrate shall pass appropriate orders keeping in view the observations made by this Court in the aforesaid judgment within two weeks therefrom. Insofar as petitioner no.1 is concerned, he should also file an undertaking before the learned Magistrate that he shall remain present before the court as and when his presence would be required for smooth and swift progress of the trial. If the learned Magistrate is satisfied that the absence of petitioner no.1 would not impede the swift and speedy disposal of the case, he may grant exemption to him also on his furnishing an appropriate

undertaking in the light of the aforesaid judgment of this court.

(ii) The nonbailable warrant issued against petitioner no.2 shall remain stayed for a period of four weeks from today.

(iii) The application for cancellation of the warrant also be considered in the light of the judgment of this Court.

(iv) This writ petition is, accordingly, disposed of.

(D.B.BHOSALE,J.)